

RESOLUTION 10-06

A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 219 – EQUIPMENT NOT REQUIRING A PERMIT AND DIRECTING STAFF ACTIONS.

On August 23, 2010, on motion by Member **ROTHSCHILD**, seconded by Member **SAGONA**, and carried, the following resolution is adopted:

WHEREAS, the Mojave Desert Air Quality Management District (MDAQMD) has authority pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

WHEREAS, previously, all agricultural activities were exempted from air district permitting by State law (former H&S Code §42310); and

WHEREAS, the federal government required the State of California to regulate, through permitting, many previously exempt agricultural activities; and

WHEREAS, California responded by adopting SB 700 in 2003 (H&S Code §40724-40724.7) which contains provisions requiring air districts to adopt rules in part to regulate pollution from larger agricultural sources in the same manner as non-agricultural sources with similar equipment; and

WHEREAS, this rule action is a part of the entire implementation of SB 700 which will eventually also include the adoption of Rules 403.3 – *Fugitive Dust Control for Off-field Agricultural Sources*, 403.4 – *Fugitive Dust Control for On-field Agricultural Sources*, 1160.1 – *Internal Combustion Engines in Agricultural Operations*, and 1186 – *Combined Animal Facilities*; and

WHEREAS, this amendment will also add a provision to include negligibly emitting fuel cells as specific equipment not requiring a permit which is a similar provision to those contained in neighboring air district rules; and

WHEREAS, the public hearing to consider the amendment of Rule 219 was originally noticed for the 06/28/10 Mojave Desert Air Quality Management District (MDAQMD) Governing Board meeting; and

WHEREAS, the MDAQMD received substantive comments from the United States Environmental Protection Agency (USEPA) on 06/01/10 and continued this public hearing since these comments could not be addressed prior to the 06/28/10 meeting; and

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1 **WHEREAS**, the proposed amendments will implement the provisions of Senate Bill 700 of 2003
2 (H&S Code §§40724-40724.7); and

3 **WHEREAS**, the proposed amendments will also add a provision to include negligibly emitting
4 fuel cells as specific equipment not requiring a permit in a manner consistent with neighboring air district
5 rules; and

6 **WHEREAS**, the MDAQMD has the authority pursuant to H&S Code §40702 to amend rules and
7 regulations; and

8 **WHEREAS**, the proposed amendments are clear in that the meaning can be easily understood by
9 the persons impacted by the Rule; and

10 **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with, or
11 contradictory to existing statutes, court decisions, or state or federal regulations because they do not
12 interfere with any federal applicable requirement concerning attainment or Reasonable Further Progress
13 (RFP) pursuant to the Federal Clean Air Act (FCAA); and

14 **WHEREAS**, the proposed amendments do not impose the same requirements as any existing state
15 or federal regulation because state law requires the adoption and implementation of these provisions; and

16 **WHEREAS**, the proposed amendments are needed to implement the provisions of Senate Bill 700
17 of 2003 (H&S Code §§40724-40724.7), and to include negligibly emitting fuel cells as specific
18 equipment not requiring a permit in a manner consistent with neighboring air district rules; and

19 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code
20 §40725, concerning the proposed amendments to Rule 219; and

21 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the
22 proposed amendments to Rule 219, completed in compliance with the California Environmental Quality
23 Act (CEQA), has been presented to the MDAQMD Board; each member having reviewed, considered and
24 approved the information contained therein prior to acting on the proposed amendments to Rule 219, and
25 the MDAQMD Board having determined that the proposed amendments will not have any potential for
26 resulting in any adverse impact upon the environment; and

27 **WHEREAS**, the Board has considered the evidence presented at the public hearing; and

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NOW, THEREFORE, BE IT RESOLVED, that the Governing Board of the MDAQMD finds that the proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* are necessary, authorized, clear, consistent, non-duplicative and properly referenced; and

BE IT FURTHER RESOLVED, that the Governing Board of the MDAQMD hereby makes a finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of Exemption for the proposed amendments to Rule 219; and

BE IT FURTHER RESOLVED, that the Board of the MDAQMD does hereby adopt, pursuant to the authority granted by law, the proposed amendments to Rule 219, as set forth in the attachments to this resolution and incorporated herein by this reference; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon adoption, that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions of CEQA.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Mojave Desert Air Quality Management District by the following vote:

AYES: 12 MEMBER: GLASPER, GOMEZ, RIORDAN, PACK, COLE, SAGONA
ROTHSCHILD, WILLIAMS, HERBEL, DECONINCK, BENOIT,
MITZELFLET

NOES: MEMBER:

ABSENT: 2 MEMBER: BIANE, DERRY

ABSTAIN: MEMBER:

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS:

I, Michele Baird, Clerk of the Governing Board of the Mojave Desert Air Quality Management District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the same appears in the Official Minutes of said Governing Board at its meeting of August 23, 2010.


Clerk of the Governing Board,
Mojave Desert Air Quality Management District.